

APPEAL NO. 030856  
FILED MAY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 13, 2003. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on January 23, 2002, with a 0% impairment rating (IR).

The claimant appeals, asserting that the designated doctor did not properly apply the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000), that her treating doctor's reports were ignored, and that a referral doctor's 5% IR constitutes the great weight of other medical evidence contrary to the designated doctor's report. The carrier responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable low back injury on \_\_\_\_\_, that the carrier's required medical examination doctor certified the claimant at MMI on January 23, 2002, with a 0% IR, that the Texas Workers' Compensation Commission (Commission) appointed a designated doctor, who, on March 28, 2002, certified the claimant at MMI on January 23, 2002, with a 0% IR, and that a referral doctor certified MMI on October 25, 2002, with a 5% IR.

The claimant was diagnosed with low back pain and/or a low back sprain/strain. The designated doctor rated the claimant in DRE (Thoracolumbar) Category I. The claimant's referral doctor rated the claimant in DRE Category II. Although there is no rating from the treating doctor in evidence, the designated doctor was advised that the treating doctor had assessed a 10% IR from Table 72, DRE Category III based on an EMG/NCV study of September 17, 2001. That report was apparently sent to the designated doctor for review and/or clarification. The designated doctor responded that in his clinical opinion the EMG finding (two months post-injury) "is an incidental finding and does not correlate" with either an MRI or the designated doctor's clinical examination and that he stands by his 0% IR.

Sections 408.122(c) and 408.125(c) of the 1989 Act provide that a report of a Commission-appointed designated doctor shall have presumptive weight on the issues of MMI and IR and the Commission shall base its determination on such report unless the great weight of other medical evidence is to the contrary. The hearing officer determined that the great weight of other medical evidence "was not sufficient to contradict" the designated doctor's certification of MMI and IR. The hearing officer did

not err in giving presumptive weight to the designated doctor's report in accordance with Sections 408.122(c) and 408.125(c).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO  
ZURICH NORTH AMERICA  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica Lopez  
Appeals Judge

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Margaret L. Turner  
Appeals Judge